

CIVIL CASE INFORMATION STATEMENT
CIVIL CASES

In the Circuit Court, Marshall County, West Virginia

2014 FEB 19 PM 4:15

I. CASE STYLED:

Plaintiff(s)

Paul J. Harris

Street

City, State, Zip

Case # 14-C-21

Judge MARK A KARL

Defendant(s)

Days to
Answer

Type of
Service

Traci M. Cook

20

via private process server

Street

City, State, Zip

Joseph F. Shaffer

20

via private process server

Street

City, State, Zip

Patrick McCarty

20

via private process server

Street

City, State, Zip

Adam Parsons

20

via private process server

Street

City, State, Zip

Estate of Carl J. Wilson, Jr.

20

via private process server

Street

City, State, Zip

Original and 8 copies of complaint enclosed/attached.

Served 2/24/14

PLAINTIFF: Paul J. Harris DEFENDANT: Traci M. Cook, Joseph F. Shaffer, Patrick McCarty, Adam Parsons and Estate of Carl J. Wilson, Jr.	CASE NUMBER: 14-C _____
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II. TYPE OF CASE:

- | | |
|---|---|
| <input checked="" type="checkbox"/> General Civil | <input type="checkbox"/> Adoption |
| <input type="checkbox"/> Mass Litigation | <input type="checkbox"/> Administrative Agency Appeal |
| <input type="checkbox"/> (As defined in T.C.R. Rule XIX (c)) | |
| <input type="checkbox"/> Asbestos | <input type="checkbox"/> Civil Appeal from Magistrate Court |
| <input type="checkbox"/> Carpal Tunnel Syndrome | <input type="checkbox"/> Miscellaneous Civil Petition |
| <input type="checkbox"/> Diet Drugs | <input type="checkbox"/> Mental Hygiene |
| <input type="checkbox"/> Environmental | <input type="checkbox"/> Guardianship |
| <input type="checkbox"/> Industrial Hearing Loss | <input type="checkbox"/> Medical Malpractice |
| <input type="checkbox"/> Silicone Implants | |
| <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Habeas Corpus/Other Extraordinary Writ | |
| <input type="checkbox"/> Other: _____ | |

III. JURY DEMAND: ☒ Yes ☐ No
 CASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): 09 / 14

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY? ☐ YES ☒ NO

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

Attorney Name: Shawn L. Fluharty, Esq.

Representing:

Firm: _____

☒ Plaintiff ☐ Defendant

Address: Fifteenth & Eoff Streets

☐ Cross-Complainant ☐ Cross-Defendant

Wheeling, WV 26003

Telephone: 304.232.5300 Fax 232-5301

Dated: _____


 Signature

☐ Proceeding Without an Attorney

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

PAUL J. HARRIS,

Plaintiff,

v.

TRACI M. COOK, JOSEPH F. SHAFFER,
PATRICK McCARTY, ADAM PARSONS and
ESTATE OF CARL J. WILSON, JR.,

Defendants.

2014 FEB 13 PM 4:15
Civil Action No. 14-C-

COMPLAINT

Introduction

This case arises from the outrageous misconduct by Defendants in violation of Plaintiff's Constitutional rights secured by the West Virginia Constitution and the common law of West Virginia. Defendant Prosecutors' tortious conduct, including fabrication of evidence and preparation of a materially false affidavit, is "investigatory" or "administrative" and accordingly absolute immunity does not apply. See Buckley v. Fitzsimmons, 509 U.S. 259 (1993).¹ Defendants' conduct violated numerous criminal statutes and was specifically designed to injure Plaintiff in his profession.

Parties

1. Plaintiff, Paul J. Harris, is a citizen of the United States and a resident of the State of West Virginia at the time of this filing.
2. Defendant, Traci M. Cook, is a citizen of the United States and a resident of the State of West Virginia at the time of this filing. Defendant Cook is sued in her individual capacity due to her intentional and outrageous misconduct.

¹ The United States Supreme Court has decided a number of cases which permit claims to proceed against prosecutors based upon the particular function being performed, see Kalina v. Fletcher, 522 U.S. 118 (1997); Malley v. Briggs, 475 U.S. 335 (1986). In addition, the Governmental Tort Claims and Insurance Reform Act, W.Va. Code § 29-12A-1, et seq., does not apply since all of Defendants' acts or omissions in this case were with "malicious purpose, in bad faith, or in a wanton or reckless manner." W.Va. Code § 29-12A-5(b)(2).

3. Defendant, Joseph F. Shaffer, is a citizen of the United States and a resident of the State of West Virginia at the time of this filing. Defendant Shaffer is sued in his individual capacity due to his intentional and outrageous misconduct.
4. Defendant, Patrick McCarty, is a citizen of the United States and a resident of the State of West Virginia at the time of this filing. Defendant McCarty is sued in his individual capacity due to his intentional and outrageous misconduct.
5. Defendant, Adam Parsons, is a citizen of the United States at the time of this filing. Defendant Parsons resides in Marshall County, West Virginia.
6. Carl J. Wilson, Jr. died of a heroin overdose on February 1, 2014 and his Estate is subject to suit per West Virginia law.

Jurisdiction/Venue

7. The Circuit Court of Marshall County, West Virginia has subject matter jurisdiction and venue lies within Marshall County, West Virginia because some of the wrongful acts occurred in Marshall County, West Virginia and Defendant Parsons resides in Marshall County, West Virginia. W.Va. Code § 56-1-1(a)(1).

Facts

8. Mr. Harris is a licensed attorney in the State of West Virginia and represents clients throughout the State of West Virginia and in Federal Court.
9. Mr. Harris is counsel of record for Kevin Junkins, Jr. in a criminal case. Defendant Cook was the assistant prosecutor on the case. The case received extensive local media coverage.
10. Trial in that case was scheduled to begin on Tuesday, May 21, 2013.
11. Approximately one week before the trial was set to begin, it became apparent Defendant Cook was woefully unprepared for trial. She failed to interview key witnesses. She failed to send the alleged drugs to the State crime lab for testing. She learned one key witness had suffered a stroke and was unable to testify. She learned the other key witness, Carl J. Wilson, Jr., did not have a clear recollection of the events. In short, Defendant Cook was faced with the prospect of trying a highly publicized case that she knew she could not win.

12. The week before the trial, Mr. Harris, on behalf of his client, filed various motions to exclude evidence, including alleged text messages and the alleged drugs for failure to have them tested.
13. Defendant Cook knew the trial of Mr. Junkins' case would not be continued since it had been continued on prior occasions.
14. Faced with the prospect of losing a high profile case, Defendant Cook in conjunction with others, set upon a scheme to fabricate evidence by arranging to have Mr. CJ Wilson, a known heroin addict, make false statements against Mr. Harris.
15. Importantly enough, CJ Wilson initially failed to name Mr. Harris as an alleged wrongdoer. It was only after continued interrogation by Defendant Cook that Mr. Wilson falsely implicated Mr. Harris in alleged wrongdoing.
16. Defendant Cook and Defendant Shaffer both realized they had a conflict of interest in pursuing charges against Mr. Harris, but nonetheless disregarded the clear conflict and agreed to present Mr. Wilson's fabricated story to the grand jury, in a hurried fashion in order to prevent the Junkins trial from proceeding.
17. On Friday, May 17, 2013, Defendant Cook and Defendant Shaffer used fabricated evidence and caused the grand jury to return a six count indictment. This occurred just two business days before the Junkins trial was set to begin.
18. Defendant Cook and Defendant Shaffer, realizing they had failed to properly prepare the Junkins case for trial and realizing the case was no longer winnable, then withdrew from the Junkins case claiming an alleged conflict.
19. The six count indictment returned against Mr. Harris had no basis in fact or law. The factual basis for the indictment was predicated upon fabricated evidence. Many of the statutes cited in the indictment had no applicability to those facts that were undisputed. Defendants Cook and Shaffer knew this but nonetheless proceeded, all in an effort to obtain a continuance in the Junkins trial and to injure Plaintiff in his profession.

20. The indictment is signed by Defendant Cook, the same assistant prosecutor on the Junkins case. The indictment lists as victims Defendant Shaffer and his assistants, one of whom is Defendant Cook. Defendant Cook and Defendant Shaffer knew that longstanding case law decided by the West Virginia Supreme Court of Appeals, and other jurisdictions, prohibits a prosecutor and his assistants from bringing an indictment where the prosecutor is a victim of the alleged offense. Nonetheless, Defendant Cook and Defendant Shaffer intentionally and maliciously disregarded the wealth of precedent and proceeded forward with an indictment which they knew was frivolous as to Mr. Harris.
21. On the evening of Friday, May 17, 2013, Mr. Harris was in his office, in Ohio County, West Virginia, preparing for the Junkins trial and was arrested. Defendants Cook, Shaffer and McCarty intentionally and maliciously timed the arrest afterhours in an attempt to have Mr. Harris incarcerated for the weekend.
22. At the time of his arrest, Plaintiff was not apprised of the charges against him, even though inquiry was made.
23. Plaintiff learned something of the charges when the news media broadcast a story the evening of his arrest. Defendant Shaffer leaked the story to the press prior to the issuance of a Court Order unsealing the indictment.
24. Defendant Cook represented the State at Mr. Harris' arraignment which took place on May 20, 2013, even though Defendant Cook is an alleged victim described in the indictment. Defendant Cook continued to prosecute the case against Mr. Harris even though Defendant Cook had a clear conflict.
25. As to Plaintiff, the indictment centers on the uncorroborated statement of a Mr. Carl "CJ" Wilson, who died from a drug overdose in the early morning hours of February 1, 2014.
26. Mr. Wilson, known to the police and prosecutor as a heroin addict, falsely claimed that he received payment while allegedly inside Mr. Harris' vehicle.

27. After the police seized Mr. Harris' vehicle, the State Crime Lab thoroughly tested the vehicle to determine the presence of any forensic evidence; that search yielded no evidence whatsoever that Mr. Wilson was ever in Mr. Harris' vehicle.
28. The police also seized all of Mr. Franklin Streets' files, which included attorney work product owned by Mr. Harris in the Junkins case as well as other cases. Defendants Cook and Shaffer acting as "administrators" permitted the sheriff's department to rifle through the files, including Mr. Harris' work product in the Junkins case, despite Defendant Shaffer's representation to the Court that his office could no longer handle the Junkins case.
29. Included in those files was critical exculpatory evidence proving that the criminal charges against Mr. Harris were without merit.
30. Defendant Cook and Defendant Shaffer intentionally and maliciously refused to disclose this evidence despite repeated requests to do so and despite an order from the Court to do so.
31. A portion of an exculpatory recording made on May 6, 2013, which Defendants Cook and Shaffer wilfully failed to disclose, is transcribed below:

MR. STREETS: Hey CJ. I just talked with Paul, the attorney.

MR. WILSON: Uh huh.

MR. STREETS: He said what they were going to do is, they are going to serve you a subpoena tomorrow.

MR. WILSON: Ahhhha.

MR. STREETS: So, but you know, like he said he cannot tell you nothing what to do, but if you are not served you cannot be arrested, but once you are served, once you are served a subpoena...[interrupted by Mr. Wilson]

...

MR. STREETS:...but if she serves you a subpoena then you have to

MR. WILSON: Then I got to

MR. STREETS: Absolutely, you have to come to court and everything else and then if you DON'T she can issue what they call a capias for your arrest.

32. As the preceding excerpt of a recording makes very clear, Mr. Harris was not counseling anyone to ignore a subpoena. To the contrary and as the statement makes clear, Mr. Harris was expressly directing Mr. Streets to inform Mr. Wilson to obey any subpoena.
33. Defendant Cook and Defendant Shaffer intentionally and maliciously refused to produce other exculpatory recordings, as well as other communication between Mr. Wilson and Mr. Streets where Mr. Wilson's demand for money is rebuffed.
34. Correspondence between Mr. Harris and Mr. Streets was delivered to Mr. Streets and subsequently faxed. The substance of the letter is as follows:

May 6, 2013

Frank Streets
Investigation Division
Rt. 1, Box 14
Volga, WV 26238

RE: State v. Junkins

Dear Frank:

Please attempt to take repeated statements of C.J. Wilson and his wife. Both appear to be addicted to controlled substances, probably heroin, and I am concerned they will change their stories. Also, be careful with regard to Wilson's repeated attempts to get/borrow money to feed his drug habit. Explain to him that we are in no position to help him in that regard.

I would like to have a statement from each of them every day if possible.

Thank you.

Very truly yours,

Paul J. Harris

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35. Again, this letter was in the possession of Defendant Cook and Defendant Shaffer, yet also was not disclosed.

36. In November 2013, Mr. Harris hired a former police officer to assist in his defense. Unbeknownst to Mr. Harris, the former police officer, Defendant Parsons, secretly met with Defendant Cook, Defendant McCarty and others and set upon a scheme to trick Mr. Harris

and cause him to needlessly expend funds. Defendant Cook, Defendant McCarty and others arranged for Mr. Parsons to secretly record Mr. Harris during which time Mr. Harris repeatedly stated that he wanted nothing illegal done.

37. Despite Mr. Harris' clear directives that nothing illegal take place, Defendant Cook, Defendant Shaffer and Defendant McCarty conspired to file a materially false affidavit with the Circuit Court of Ohio County, West Virginia to unlawfully obtain a search warrant of Mr. Harris' office.
38. The materially false affidavit was prepared, in part, by Defendant Cook and signed by Defendant McCarty and was designed to mislead the Circuit Court of Ohio County, West Virginia to issue a search warrant of Mr. Harris' office, all of which violated various criminal statutes.
39. Throughout the course of the criminal proceedings against Mr. Harris, Defendant Cook repeatedly stated that her goal was to adversely affect Mr. Harris' law license. Such conduct by Defendant Cook constitutes an improper collateral purpose in violation of the common law of West Virginia.
40. On February 19, 2014 the criminal case against Mr. Harris was dismissed.

COUNT ONE

Article III, §10 of West Virginia Constitution Due Process Violation – Fabrication of Evidence by Defendant Cook

41. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 40 of this Complaint.
42. The initial statement of CJ Wilson failed to implicate Mr. Harris in any manner.
43. Defendant Cook knew that CJ Wilson was a known heroin addict and would frequently make false statements to assist the police and prosecutors. Indeed, Mr. Wilson set up his own mother at the request of the police. Defendant Cook knew this.
44. Defendant Cook caused CJ Wilson to falsely state that Mr. Harris committed some alleged criminal act.

45. Such wrongful conduct by Defendant Cook was in an investigatory capacity such that absolute immunity does not apply. *See Buckley v. Fitzsimmons*, 509 U.S. 259 (1993).
46. Such wrongful conduct by Defendant Cook violates Article III, §10 of West Virginia Constitution.
47. As a direct and proximate result of the wrongful conduct of Defendant Cook, Mr. Harris was damaged in an amount to be determined at trial by a jury.

COUNT TWO

Article III, §10 of West Virginia Constitution Due Process Violation –False Affidavit as to Defendant Cook and Defendant McCarty

48. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 47 of this Complaint.
49. In November 2013, a materially false affidavit was submitted to the Circuit Court of Ohio County, West Virginia in an effort to trick and deceive the Court into issuing a search warrant of Mr. Harris' office.
50. The false affidavit was prepared by Defendant Cook and Defendant McCarty, and signed under oath by Defendant McCarty.
51. The conduct of Defendant Cook was not as an "advocate", but constituted legal advice to the police such that absolute immunity does not apply. *See Burns v. Reed*, 500 U.S. 478 (1991).
52. The wrongful conduct of Defendant Cook and Defendant McCarty violates Article III, §10 of West Virginia Constitution.
53. As a direct and proximate result of the wrongful conduct of Defendant Cook and Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT THREE

Article III, §10 of West Virginia Constitution Due Process Violation – Conflict of Interest by Defendant Cook and Defendant Shaffer

54. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 53 of this Complaint.

55. In May 2013, Defendant Cook appeared before the grand jury, not as an “advocate” but as a material witness such that absolute immunity does not apply. See Kalina v. Fletcher, 522 U.S. 118 (1997).
56. Both Defendant Shaffer and Defendant Cook, by implication, were alleged victims according to the plain language of the indictment, and as such Defendant Cook was an unauthorized person appearing before the grand jury.
57. Despite having a clear conflict of interest, Defendant Cook and Defendant Shaffer proceeded with the indictment for the purpose of obtaining a continuance of the Junkins trial and for the purpose of injuring Mr. Harris in his profession.
58. Defendant Shaffer, in acting as an “administrator” wilfully refused to remove his office from prosecuting Mr. Harris despite a clear obligation to do so.
59. The wrongful conduct of Defendant Cook and Defendant Shaffer violates Article III, §10 of West Virginia Constitution.
60. As a direct and proximate result of the wrongful conduct of Defendant Cook and Defendant Shaffer, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT FOUR

Article III, §10 of West Virginia Constitution Due Process Violation – Wilful Failure to Disclose Exculpatory Evidence by Defendant Cook and Defendant Shaffer

61. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 60 of this Complaint.
62. Defendant Cook and Defendant Shaffer, as “administrators” have a clear duty to provide exculpatory evidence and intentionally and wilfully failed to do so.
63. Defendant Cook and Defendant Shaffer intentionally and wilfully failed to disclose the exculpatory evidence set forth in paragraph 31 and paragraph 34 of this Complaint, as well as other recordings and communications which unquestionably proved the innocence of Mr. Harris.
64. The wrongful conduct of Defendant Cook and Defendant Shaffer violates Article III, §10 of West Virginia Constitution.

65. As a direct and proximate result of the wrongful conduct of Defendant Cook and Defendant Shaffer, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT FIVE

**Article III, §10 of West Virginia Constitution
Due Process Violation – Exacting Pretrial Punishment by
Defendant Cook, Defendant Shaffer and Defendant McCarty**

66. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 65 of this Complaint.

67. Defendant Cook, Defendant Shaffer and Defendant McCarty exacted pretrial punishment against Mr. Harris by causing him to be arrested after business hours on Friday, May 17, 2013.

68. The timing of the arrest was for the specific purpose of harming Mr. Harris so that he could not timely appear before a West Virginia Magistrate for pretrial release.

69. It is the custom and practice of Defendant Cook, Defendant Shaffer and Defendant McCarty to exact this type of pretrial punishment against accused individuals.

70. The wrongful conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty violates Article III, §10 of West Virginia Constitution.

71. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT SIX

**Article III, §10 of West Virginia Constitution
Due Process Violation – Frivolous Charges in Indictment as to Defendant Cook and
Defendant Shaffer**

72. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 71 of this Complaint.

73. In May 2013, Defendant Cook appeared before the grand jury, not as an “advocate” but as a material witness such that absolute immunity does not apply. *See Kalina v. Fletcher*, 522 U.S. 118 (1997).

74. Both Defendant Shaffer and Defendant Cook, by implication, were alleged victims according to the plain language of the indictment.
75. As witnesses, and not as "advocates", both Defendant Cook and Defendant Shaffer realized that the charges in the indictment as to Mr. Harris were based upon fabricated evidence and accordingly had no legitimate basis in fact.
76. Further, many charges in the indictment had no basis in law such that Defendant Cook and Defendant Shaffer intentionally and maliciously used criminal statutes with no applicability to the undisputed facts.
77. The wrongful conduct of Defendant Cook and Defendant Shaffer violates Article III, §10 of West Virginia Constitution.
78. As a direct and proximate result of the wrongful conduct of Defendant Cook and Defendant Shaffer, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT SEVEN

Violation of W.Va. Code § 61-5-27a as to Defendant Cook

79. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 78 of this Complaint.
80. Defendant Cook knowingly caused a fraudulent affidavit to be prepared and executed by Defendant McCarty such that the fraudulent affidavit was false and materially misstated.
81. The fraudulent affidavit was delivered to the Circuit Court of Ohio County, West Virginia.
82. Such wrongful conduct by Defendant Cook violates W.Va. Code §61-5-27a and such conduct gives rise to a civil cause of action per W.Va. Code §61-5-27a(h).
83. As a direct and proximate result of the wrongful conduct of Defendant Cook, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT EIGHT

Civil Conspiracy as to Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons

84. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 83 of this Complaint.
85. Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons conspired and agreed to deprive Mr. Harris of his constitutional rights under the West Virginia Constitution.
86. In November 2013, Mr. Harris hired a former police officer to assist in his defense. Unbeknownst to Mr. Harris, the former police officer, Defendant Parsons, secretly met with Defendant Cook, Defendant McCarty and others and set upon a scheme to trick Mr. Harris and cause him to needlessly expend funds. Defendant Cook, Defendant McCarty and others arranged for Mr. Parsons to secretly record Mr. Harris during which time Mr. Harris repeatedly stated that he wanted nothing illegal done.
87. Despite Mr. Harris' clear directives that nothing illegal take place, Defendant Cook, Defendant Shaffer and Defendant McCarty conspired to file a materially false affidavit with the Circuit Court of Ohio County, West Virginia to unlawfully obtain a search warrant of Mr. Harris' office.
88. The materially false affidavit was prepared by Defendant Cook and signed by Defendant McCarty and was designed to mislead the Circuit Court of Ohio County, West Virginia to issue a search warrant of Mr. Harris' office, all of which violated various criminal statutes.
89. When Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons took the foregoing act against Mr. Harris, which acts include deprivation of property rights, unlawful arrest, and false imprisonment they conspired to deprive Mr. Harris of his rights under the West Virginia constitution.

90. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT NINE

Breach of Contract as to Defendant Parsons

91. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 90 of this Complaint.

92. In November 2013, Mr. Harris hired a former police officer to assist in his defense. Unbeknownst to Mr. Harris, the former police officer, Defendant Parsons, secretly met with Defendant Cook, Defendant McCarty and others and set upon a scheme to trick Mr. Harris and cause him to needlessly expend funds. Defendant Cook, Defendant McCarty and others arranged for Mr. Parsons to secretly record Mr. Harris during which time Mr. Harris repeatedly stated that he wanted nothing illegal done.

93. Defendant Parsons' conduct constitutes a breach of the implied covenant of good faith and fair dealing deemed to exist in every contract.

94. As a direct and proximate result of the material breach of contract by Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT TEN

Malicious Prosecution as to Defendant McCarty and Defendant Estate of Carl J. Wilson, Jr.

95. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 94 of this Complaint.

96. Defendant Estate of Carl J. Wilson, Jr. is liable for the wrongful conduct of CJ Wilson per West Virginia law.

97. Defendant McCarty, along with others, set upon a scheme to fabricate evidence by arranging for Mr. CJ Wilson, a known heroin addict, to make false statements against Mr. Harris.

98. Defendant McCarty along with Mr. CJ Wilson and others presented fabricated evidence to the grand jury to wrongfully secure an indictment against Mr. Harris.

99. The indictment was frivolous and based upon fabricated evidence.

100. On February 19, 2014 the indictment was dismissed against Mr. Harris.

101. As a direct and proximate result of the wrongful conduct of Defendant McCarty and Defendant Estate of Carl J. Wilson, Jr., Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT ELEVEN

Abuse of Process as to Defendant Cook, Defendant Shaffer and Defendant McCarty

102. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 101 of this Complaint.

103. Defendant Cook, Defendant Shaffer and Defendant McCarty caused an indictment to be returned against Mr. Harris for the improper collateral purpose of adversely affecting Mr. Harris' law license and to otherwise injure him in his profession. Such conduct by Defendant Cook, Defendant Shaffer and Defendant McCarty constitutes abuse of process.

104. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT TWELVE

False Imprisonment as to Defendant Cook, Defendant Shaffer and Defendant McCarty

105. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 104 of this Complaint.

106. Defendant Cook, Defendant Shaffer and Defendant McCarty caused Mr. Harris to be detained and restricted his movement.

107. Defendant Cook, Defendant Shaffer and Defendant McCarty caused Mr. Harris to be arrested and detained in an effort to inflict pretrial punishment against him.

108. Defendant Cook, Defendant Shaffer and Defendant McCarty were without legitimate lawful process to detain Mr. Harris.

109. Defendant Cook, Defendant Shaffer and Defendant McCarty's conduct constitutes the tort of false imprisonment.

110. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT THIRTEEN

Tort of Outrage as to Defendant Cook, Defendant Shaffer and Defendant McCarty

111. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 110 of this Complaint.

112. The conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty as set forth in this Complaint transcends the bounds of decency in a civilized society.

113. The conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty as set forth in this Complaint was specifically designed to cause Mr. Harris to experience great emotional pain and suffering.

114. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer and Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT FOURTEEN

Fraud as to Defendant Parsons

115. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 114 of this Complaint.

116. Defendant Parsons was hired to assist in Mr. Harris' defense.

117. Defendant Parsons lied in an effort to wrongfully obtain sums of money from Mr. Harris.

118. Defendant Parsons engaged in a scheme or artifice to defraud Mr. Harris of his money and property, including, but not limited to (pending discovery), the following ways:

- a. Defendant Parsons' misrepresentation to Mr. Harris of his role in assisting Mr. Harris with his defense.
- b. Defendant Parsons secretly met with Defendant Cook, Defendant McCarty, and others and arranged for Defendant Parsons to secretly record Mr. Harris during which time Mr. Harris repeatedly stated that he wanted nothing illegal done.
- c. Defendant Parsons set up a scheme to trick Mr. Harris and cause him to needlessly expend funds.

119. Defendant Parsons intentionally, maliciously, and wrongfully defrauded Mr. Harris.

120. As a direct and proximate result of the wrongful conduct of Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT FIFTEEN

Intentional Misrepresentation as to Defendant Parsons

121. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 120 of this Complaint.
122. Defendant Parsons was hired to assist in Mr. Harris' defense.
123. Defendant Parsons intentionally misrepresented that the expenditure of funds given to him would be used in furtherance of the defense, when in fact the funds were not used for such purpose.
124. As a direct and proximate result of the wrongful conduct of Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT SIXTEEN

False Swearing as to Defendant McCarty

125. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 124 of this Complaint.
126. Defendant McCarty signed under oath a materially false affidavit which was improperly used to obtain a search warrant of Mr. Harris' office.
127. Defendant McCarty's conduct was wilful and intentional and violates W. Va. Code §61-5-2.
128. As a direct and proximate result of the wrongful conduct of Defendant McCarty, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT SEVENTEEN

Perjury as to Defendant Estate of Carl J. Wilson, Jr.

129. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 128 of this Complaint.

130. Defendant Estate of Carl J. Wilson, Jr. is liable for the wrongful conduct of CJ Wilson per West Virginia law.

131. CJ Wilson, while under oath, wilfully testified falsely before the grand jury in an effort to secure an indictment against Mr. Harris.

132. The conduct of CJ Wilson violates W.Va. Code §61-5-1(a).

133. As a direct and proximate result of the wrongful conduct of CJ Wilson, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT EIGHTEEN

Suborning Perjury as to Defendant Cook

134. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 133 of this Complaint.

135. Defendant Cook induced or procured CJ Wilson to testify falsely regarding a material matter before the grand jury to secure an indictment against Mr. Harris.

136. Defendant Cook was wilful and malicious.

137. Defendant Cook's conduct violates W.Va. Code §61-5-1(b).

138. As a direct and proximate result of the wrongful conduct of Defendant Cook, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT NINETEEN

Violation of W. Va. Code §62-1D-9(d) as to Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons

139. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 138 of this Complaint.

140. Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons wrongfully and illegally caused a device designed to intercept wire, oral, or electronic communications

to record in the place of employment of Mr. Harris, and attorney at law, licensed to practice law in this state.

141. Such wrongful conduct by Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons violates W.Va. Code §62-1D-9(d) and such conduct gives rise to a civil cause of action per W.Va. Code §61-5-27a(h).

142. As a direct and proximate result of the wrongful conduct of Defendant Cook, Defendant Shaffer, Defendant McCarty and Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

COUNT TWENTY

Tort of Outrage as to Defendant Parsons

143. Mr. Harris incorporates by reference the allegations set forth in paragraphs numbered 1 through 142 of this Complaint.

144. Defendant Parsons was hired to assist in Mr. Harris' defense.

145. Defendant Parsons lied in an effort to wrongfully obtain sums of money from Mr. Harris.

146. Defendant Parsons engaged in a scheme or artifice to defraud Mr. Harris of his money and property, including, but not limited to (pending discovery), the following ways:

- a. Defendant Parsons' misrepresentation to Mr. Harris of his role in assisting Mr. Harris with his defense.
- b. Defendant Parsons secretly met with Defendant Cook, Defendant McCarty, and others and arranged for Defendant Parsons to secretly record Mr. Harris during which time Mr. Harris repeatedly stated that he wanted nothing illegal done.
- c. Defendant Parsons set up a scheme to trick Mr. Harris and cause him to needlessly expend funds.

147. Defendant Parsons intentionally, maliciously, and wrongfully defrauded Mr. Harris.

148. Defendant Parsons intentionally misrepresented that the expenditure of funds given to him would be used in furtherance of the defense, when in fact the funds were not used for such purpose.

149. As a direct and proximate result of the wrongful conduct of Defendant Parsons, Mr. Harris has been damaged in an amount to be determined at trial by a jury.

WHEREFORE, Plaintiff respectfully requests the jury award him compensatory damages, punitive damages, costs and attorney fees, and such further relief as the Court deems appropriate.

Jury trial demanded.

Plaintiff,
by counsel,



Shawn L. Fluharty
W. Va. Bar # 11254
PO Box 1200
Wheeling, WV 26003

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

PAUL J. HARRIS,

Plaintiff,

v.

TRACI M. COOK, JOSEPH F. SHAFFER,
PATRICK McCARTY, ADAM PARSONS and
ESTATE OF CARL J. WILSON, JR.,

Defendants.

Civil Action No. 14-C-_____


PLAINTIFF'S NOTICE OF DEPOSITIONS

COMES NOW Plaintiff, by counsel, and provides notice that Plaintiff's counsel will take the depositions of the following persons:

- 1) Traci M. Cook on June 10, 2014, at 9:00 a.m.;
- 2) Joseph F. Shaffer on June 11th, 2014 at 9:00 a.m.;
- 3) Patrick McCarty on June 12th, 2014 at 9:00 a.m.; and
- 4) Adam Parsons on June 13th, 2014 at 9:00 a.m.

The depositions will take place at Harris Law Offices at 32-15th Street, Wheeling, West Virginia, 26003. The depositions will be taken by stenographic means before a court reporter authorized to administer oaths in the State of West Virginia.

Plaintiff,
by counsel,


Shawn L. Fluharty
W. Va. Bar # 11254
PO Box 1200
Wheeling, WV 26003

CERTIFICATE OF SERVICE

I hereby certify a true and exact copy of this *Plaintiff's Notice of Depositions* was served via hand deliver with Complaint.


Shawn L. Fluharty